

Lewis County Planning Commission **Public Meeting**

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

April 9, 2013 - Meeting Notes

Planning Commissioners Present: Mike Mahoney, Bob Guenther, Russ Prior, Arny Davis, Richard Tausch, Clint Brown

Planning Commissioners Excused: Jim Lowery

County Commissioners Present: Lee Grose

Staff Present: Stan May, Glenn Carter, Lee Napier, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from March 26, 2013
- Staff Report: Large Lot Subdivisions
- Large Lot Subdivisions Chapter 16 Draft
- Staff Report: Comprehensive Plan Update Draft
- Chapter 7 Capital Facilities and Utilities Element
- Appendix C Capital Facilities and Utilities Profile
- Future Land Use Map East County
- Future Land Use Map West County
- Memo from Dianne Dorey re: Public Benefit Rating System (open space)
- Applications for Open Space

1. Call to Order

Chairman Davis called the meeting to order at 6:02 p.m. The Commissioners introduced themselves.

2. Approval of Agenda

There were no changes to the agenda.

3. Approval of Meeting Notes

The Chair entertained a motion to approve the meeting notes from March 26, 2013. Commissioner Guenther made the motion to approve; Commissioner Prior seconded. The meeting notes were approved.

4. Public Hearing

A. Public Hearing on Large Lot Subdivisions

Mr. Stan May stated there were a couple of last minute changes to the code and those changes were distributed to the Planning Commissioners. These changes were generated by reaching out to the public and in particular people who are affected by the Large Lot Subdivision change. An email to some forestry groups resulted in some phone calls which prompted the modifications. The biggest change is in the staff report and a section has been added to "exemptions" in the code.

The current process states that land divisions that result in properties larger than 20 acres are exempt from the subdivision code. That means someone who has a lot larger than 40 or 80 acres can record a survey and file it with the Auditor to divide their land. It is not reviewed for zoning compliance. The result is that there could be 20-acre lots in an area that is zoned for 80 acres, which will most likely be in Forest because that is the only areas that are zoned that large. This can lead to disputes between the seller and the purchaser. The proposed Community Development review, which staff would like inserted, would ensure that these land divisions meet the zoning requirements. That is the purpose of doing this modification.

Mr. May looked at what other GMA counties on either side of the Cascades are doing. Some exempt above 20 acres but those require a certificate of exemption. Most of the counties are at 80 or 100 acres; Thurston, Lewis and Yakima are the only counties that are less than that. King County is at 40 acres and must meet minimum lot size for zoning. What staff is proposing is not out of the norm. The key proposed changes are land divisions up to 80 acres will require a review.

An issue that came up in telephone conversations was that the forestry companies sometimes have an area that cannot be used for forestry that they periodically sell to conservancy groups or land trusts. Title 16 section 16.02.040 (11) deals with those lots.

Another change is the language in large lot subdivisions to be set up for doing divisions of up to 80 acres rather than up to 20. Finally, the simple segregation is expanded to include any number of lots as long as they are more than 20 acres, rather than limiting them to four. These modifications will provide some flexibility to large land owners who want to do some divisions in forestry but it ensures that it complies with zoning if they sell; or if they sell it to a conservancy and the property is less than whatever the maximums are.

Large lot subdivisions and simple segregations are administrative decisions and do not have to go before the Hearing Examiner.

Mr. May explained the impacts to landowners. Large lot subdivisions and simple segregations would require a permit and need to meet zoning regulations.

Mr. May asked for questions; there were none.

Chairman Davis opened the public hearing on Large Lot Subdivisions and asked for testimony from the public.

Mr. Glenn Carter asked if Mr. May's comments were to be included as testimony for purposes of the hearing. Mr. May stated they should be. He apologized for not introducing himself: he is the senior long range planner for Lewis County.

Mr. Eugene Butler, Chehalis, stated he is in favor of the large lot subdivision proposal. He stated it becomes a more adequate way of dealing with subdivisions and gives a better opportunity to deal with primary roads and other facilities that may or may not be indicated in a large lot.

Mr. Chris Butler, Butler Surveying, Chehalis, prepared a letter for the Planning Commission which he distributed. He stated he is intrinsically opposed to this proposal. He felt it was poorly designed and lacked the perspective that Lewis County needs. There is no advantage to putting LLS exemptions up to

80 acres in size. All that you will increase is the cost. At the end of the day the roads will be better because of Public Works and planning review, but with that will come the exponential cost of that lot when it is proposed and completed. He spoke to Lee Napier and laid out the ideas of the timber companies and conservation groups. His company does a considerable amount of work for Green Diamond Resource Company in their Mason County holdings, also a county that has its thresholds and was not on the list. Green Diamond as stewards of their land do quite a bit of work with taking ground that should be locked up in perpetuity: wetlands, steep slopes, flood plains, that they have as part of larger pieces and putting them into tracts and selling them to resource groups. They are literally locked up in perpetuity. If we propose this LLS raise to 80 acres, Green Diamond – if they wanted to sell off river front property that should be locked up – will have to go through LLS. They can't just write a description and that is going to lead them and many others to be less willing to bring that on, to sell that property. Why should they bear that additional expense? Be careful if you decide to support this that you don't fail to recognize that what you are doing and protecting people from doing inappropriate subdivisions in long term forestry zone will have the collateral damage side to everybody else in every RDD zone, every ARL zone – this is an across-the-board move that affects every subdivision proposal from here to eternity in Lewis County. He does not believe it is the right time or the right choice and what stands out the most is if we propose this we are more stringent on this question than Thurston County. We have long held that we are the reasonable county. He rarely works in Thurston County because it has become so onerous because of pocket gophers, etc. etc. It starts here and it ends there. To the benefits of the citizenry of Lewis County he does not see that we are providing it.

Commissioner Davis asked if Mr. Butler's proposal would be to leave it as it is currently.

Mr. Butler: There is currently nothing wrong with what we have on the books. In the last paragraph of his letter he says he is concerned about people doing subdivisions in violation of zoning (did not want to use the term "illegal"). He stated he and his fellow surveyors make sure they know the zoning before they do anything. They are on the hook if they don't look. The whole premise of the 20-acre minimum was the idea that on a 20-acre piece you will find an area that will support a septic, statistically. You can get water and you can provide for access. Maybe not the big road and that is one of the worries. If PW says it has to be a narrow road and it is at 25% grade they will not let the person get a building permit because it does not meet the fire code. At some point when do we draw the line at protecting people from themselves? Is there no buyer beware anymore? No due diligence anymore? That is what this leads to. If he has to go to the planning department and have them review the entire proposal to split an 80 into two 40s both of which might front a county road, he gave the additional costs in his letter, just in county fees alone. Don't think that cost is going to be borne by the owner. That cost will be borne by any future buyers. That's why a 20-acre lot in Thurston County is \$150K and a 20-acre lot in Lewis County it is \$80K. If we are looking to generate growth in this county, this is not a step in that direction.

Commissioner Mahoney stated: This was addressed primarily with concerns for forestry ground. His concern would be the 20 to 80 acres non forestry ground, RDD20, RDD10 and parcels are being sold that are less than the zoning requirement and there is no way to check up on it, no way to stop it until the new owner comes in and asks for a permit.

Mr. Butler: In RDD5, 10, 20 and ARL the minimum lot size is 20 acres- to be exempt from subdivisions, 20 acres in size. There is a misnomer that says in RDD5 the smallest lots one can have is 5 acres in size. That is not true. RDD5, 10 and 10 speak to density. In the RDD5 zone for every 5 acres you get one home. On a 20 acre piece you can get 4 homes. That can be three 2 acre lots and a 14 acre remainder.

You would have to go through a short plat to do it but you don't have to be 5 acres in size. Nor do you have to be 20 acres in size in RDD20. If you have 21 acres in RDD20 you get one home. If you have 39 acres in RDD20 you get one home. There is an exemption to that occasionally. His example was the parents want to give 20 acres to a son to build a home. Before it was simply here's your deed, go to attorney, write your description, make sure property taxes are paid, Assessor's office reviews it, it gets recorded and it is taken to Auditor. It can be done by survey but there is no prohibition by doing it with a deed. If you have an aliquot description you can record a deed and subdivide property. He doesn't see anything wrong with that because there is always a check and a balance. The only zone that ever comes into play in this question is the forestry zone. It is the only one that contains the prohibition. Mr. Butler stated he had spoken to Denise Unzelman and asked her how many times she is seeing people record deeds in forestry zone. She could not remember one. Mr. Butler understands that we are trying to keep people from being misled, wanting to get their retirement 20 only to find out that they have to extend power up the road and other expenses. It is no longer a viable product. To Mr. Butler that is due diligence. If we keep changing the rules and make it more stringent we will be Pierce County before we know it. It will never affect the RDD stuff.

Commissioner Brown: You talked about cost and alluded to other issues you foresaw that the other counties have problems with. Could you expand on that a little more?

Mr. Butler: Regarding driving up the cost of the lots? Commissioner Brown: You seem to indicate there are other issues besides costs that come from the change in the lot sizes.

Mr. Butler: One thing that is paramount in that question is the time that goes into the subdivision process. Exempt right now: 20 acre lots. Put into the subdivision code, those subdivision lots will become subject to the question of water rights. Right now they are not. Exempt subdivisions do not have to meet the water rights concern. If you want to do a large lot subdivision (LLS) of 5-acre lots in Lewis County you can do 6 on one subdivision. That is your 5K gpd exemption. If you are hooked up to a municipal provider you can do more than that but you have to have that municipal water. Right now they are subdivision reviewable. If you have 100 acres and you want to split into 5 20's that's fine because you won't trigger water rights on your division. In theory 5 20's withdraw no more ground water than 5 1 acre lots because there is still only one well. You get to your 7th lot – we will expand out the simple segregation rule that you can do as many as you want. Right now the prohibition is 4. Do as many as you want – that is not really true because unless you have water rights you can only do 6. You will trigger SEPA on every one of those and then you will look back and not realize that was coming. This whole water rights thing – where was that in public comment. Here it is.

He doesn't necessarily agree with the water rights thing. Philosophically one man's opinion, but it is the law since 1990 and he supports it completely. The cost that will drive up these things is the idea of the full lot (?) development of these properties in advance of them being sold. No different from 5-acre tract divisions. If you take a standard 40 with a road down the middle and a cul de sac at the end, you are looking at 990' of road with a cul de sac. That gets you all 8 lots (you need a water right for that). Take the same thing and do a 20 acre division. You have just expanded that road footprint from 900 feet to about 3000 feet. Yes, there is a place for that – it should happen at some point, but he doesn't feel it is prudent for it to be put in the LLS ordinance. He does these things in Thurston County and he is shocked to get it through. It takes a year from start to finish on a 4-lot division. All the time the clients are paying the monthly interest payment on their property. It is not your legal right to subdivide your property, it is a thing that is allowed; you have no constitutional right to subdivide. Since we do allow

subdivision, why don't we take some steps in Lewis County to make sure we keep it somewhat reasonable in cost? Developers will pay it but it will get transferred to the buyers eventually.

There were no other questions from the Commissioners.

Mr. Brandon Bird was representing Pope Resources Company who owns about 40,000 acres in Lewis County. They also own land in many other counties which allows Mr. Bird to work with their land divisions and segregations. After looking at what is proposed, some other counties have simple solutions, which he summarized. He suggested something similar for Lewis County and offered examples and help if desired.

There were no questions from the Commissioners.

Chairman Davis closed the public hearing on large lot subdivisions. Commissioner Mahoney suggested leaving written testimony open until Monday, April 15, 2013 before the close of business.

Chairman Davis asked Mr. May to speak to the Comprehensive Plan Amendment draft changes. Mr. May stated there are no additional changes to the Comp Plan. He explained the process for the Comprehensive Plan update and reviewed the draft changes.

For the 2013 Comprehensive Plan there is a Capital Facilities and Utilities Element update, primarily adding language to adopt by reference the following Capital Facilities Plans: the Lewis County Capital Facilities Plan; the Lewis County Transportation Improvement Program; School District Capital Facilities Plans that are adopted by Lewis County. There will also be some corrections in the Profile section of the Capital Facilities for consistency with the Element. The Profile corrections are to make sure it includes all of the school districts that have submitted Capital Facilities Plans that were adopted by the County. There are six: Centralia, Chehalis, Napavine, Onalaska, Toledo and Winlock, which were adopted by resolution in 2009. All of these capital facilities plans can be found on the Comprehensive Plan website.

In the Capital Facilities and Utilities Profile the section was modified to eliminate duplications and make it consistent. Summaries submitted by three more districts are shown there; another five districts did not submit any summary and they are also listed.

Mr. May asked for questions. There were none from the commission.

Mr. May stated the second part of the Comprehensive Plan this year is the update of the Future Land Use Map which is adopted as part of the Comp Plan and what generally drives zoning. All zoning and all development code must be consistent with the Comprehensive Plan. When the County originally adopted its Comp Plan and zoning code the zoning map and the future land use maps were one and the same, which meant that any time any sort of zoning change was made there had to be a Comp Plan amendment process which is a rather onerous process at times. This is the final step for separating those two maps so any zoning change won't necessarily trigger a Comp Plan amendment. This would not apply in changing from ARL to RDD.

There has also been a change in the wording in the legend so that it is no longer the same as the zoning wording. Agricultural Resource Lands have been changed to Agriculture, etc.

Mr. May asked for questions. There were none from the Commission.

Chairman Davis opened the public hearing testimony at 6:54. Mr. May asked that his previous remarks be entered into the record. No one wished to speak.

Chairman Davis closed the public hearing and asked for discussion. Commissioner Brown asked if written testimony would be left open. Written testimony was left open until April 15.

5. Old Business

There was no old business.

6. New Business

A. 1st Workshop on Open Space

Ms. Dianne Dorey, Lewis County Assessor, presented proposals to change properties into farm and ag conservation land as well as other conservation programs. The Public Benefit Rating System is a program where members of the community, the BOCC and someone from the Planning Commission review the applications. There is a point system and based on the point system those recommendations go to the Planning Commission to be reviewed and accepted.

Chairman Davis asked for questions from the Commission. There were none. A public hearing was set for May 28 on the Public Benefit Rating System

7. Calendar

The next meeting will be on April 23, a public hearing on the Flood Damage Prevention Update, Chapter 15.35.

8. Good of the Order

Commissioner Mahoney welcomed Gene Butler back to the Planning Commission meetings, and acknowledged Commissioner Grose.

Mr. Chris Butler stated he was not aware of the Large Lot Subdivision public hearing until a client told him and asked if there was a way to be notified of Planning Commission agendas. Mr. May stated staff is in the process of developing an email notification system for announcements from the planning department and the Planning Commission. He asked Mr. Butler to check the Community Development website on Wednesday and he would be able to sign up.

Chairman Davis asked about placing a small ad in the local papers regarding Planning Commission meetings. The Commission sometimes laments the lack of public participation on issues that have long-term impacts on the public. To get them more involved would be beneficial.

9. Adjourn

There was no further business; Commissioner Mahoney moved to adjourn; Commissioner Prior seconded. The meeting adjourned at 6:57 p.m.